

TAB

ADMINISTRATIVE—INTERNAL USE ONLY

PERSONNEL

STATINTL

SECTION IV: SEPARATIONS

26. SEPARATIONS (GENERAL). Employees with staff status may separate from the Agency under the provisions of [] or be separated by the Agency under the provisions of []. The termination of employment of nonstaff employees will be governed by the terms of their contracts. The procedures for exit processing are given in [] Exit Processing for Separation or Extended Leave.

STATINTL

STATINTL

a. AUTHORITY. Under the law, Agency employees do not have tenure.

- (1) The Director of Central Intelligence is empowered to terminate the employment of any Agency employee when he determines it necessary or advisable in the interests of the United States. Termination action is accomplished under the authority of section 102(c) of the National Security Act of 1947 quoted below:

"Notwithstanding the provisions of Section 6 of the Act of August 24, 1912 (37 Stat. 555), or the provisions of any other law, the Director of Central Intelligence may, in his discretion, terminate the employment of any officer or employee of the Agency whenever he will deem such termination necessary or advisable in the interests of the United States, but such termination shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the United States Civil Service Commission."

- (2) The National Security Act of 1947, as amended, specifically charges the Director of Central Intelligence with the protection of intelligence sources and methods. For this purpose, Section 6 of the Central Intelligence Agency Act of 1949, as amended, provides that the Agency will be exempted from the provisions of any law that requires the publication or disclosure of names, official titles, salaries, or numbers of personnel employed by the Agency. Since normal government procedures require such disclosures with respect to the termination of employees declared surplus, the Director of Central Intelligence has determined that the termination of these employees will be effected pursuant to the authority cited in paragraph (1) above. No employee declared surplus will be entitled to consideration under procedures set forth in any other law or regulation, including the Veteran's Preference Act of 1944 (5 U.S.C. 851), as amended, or United States Civil Service Commission regulations promulgated thereunder. Such termination will not affect the right of the employee to seek or accept employment in any other department or agency of the Government if declared eligible for employment by the United States Civil Service Commission.

b. DEATH. Upon learning of the death of an employee, supervisors will report the death immediately to the Office of Personnel. The Office of Personnel will report the death to the Director of Central Intelligence, assist the survivors, and arrange for the prompt settlement of all entitlements pertaining to Agency employment.

ADMINISTRATIVE—INTERNAL USE ONLY

PERSONNEL

STATINTL

27. **SEPARATION BY THE AGENCY.** As appropriate under statute, an employee may be separated from the Agency by action of the Director of Central Intelligence. An employee is entitled to retirement benefits, if otherwise qualified, unless guilty of offenses specified by statute. An employee not entitled to retirement benefits is entitled to separation compensation, subject to the provisions of [] unless separated for reasons of misconduct, delinquency, or inefficiency.

a. **SEPARATION DURING TRIAL PERIOD.** Heads of Career Services are responsible for identifying employees under their jurisdiction who do not successfully complete the first year trial period. The purpose of the trial period is to permit assessment of the employee to determine that continued employment is in the best interests of both the employee and the Agency. The Head of Career Service, or designee, will notify the Director of Personnel before the close of the first year trial period if continuation of employment is not recommended. The Director of Personnel will review the case and if concurring with noncontinuation will terminate employment, notifying the employee of the reasons for separation and the effective date of the action.

b. **TERMINATION OF CONTRACT.** The conditions governing termination by either party prior to the termination of a contract are governed by the terms of the contract.

c. **TERMINATION FOR FAILURE TO MEET THE WORK AND EFFICIENCY REQUIREMENTS OF THE AGENCY.** An employee who fails to meet the work and efficiency requirements of the Career Service or fails to perform adequately the duties of the assigned position should be considered for administrative action which may, under the procedures applying, include separation from the Career Service and, possibly, the Agency.

d. **TERMINATION FOR FAILURE TO MEET SECURITY OR MEDICAL STANDARDS.** The Director of Security and the Director of Medical Services will make appropriate recommendations to the Director of Personnel when an employee does not meet Agency security or medical standards.

e. **TERMINATION FOR FAILURE TO MEET STANDARDS OF CONDUCT.** The Agency standards of employee conduct are set forth in [] Heads of Career Services will ensure that appropriate officials take or initiate corrective or disciplinary action as necessary. If warranted, Heads of Career Services will forward a recommendation for separation to the Director of Personnel if an employee fails to meet Agency standards of conduct.

f. **TERMINATION FOR ABANDONMENT OF POSITION.** An employee who abandons a position may be separated without following the usual procedures for involuntary separation. After the employee's failure to report for duty or to return from leave, an effort should be made to determine the employee's intentions. If this cannot be done within ten days, the employee may be separated for abandonment of position. The separation will be effective the last day of active duty or of approved leave, whichever is later. Notice of separation will be mailed to the employee's last known address. If later evidence indicates that the abandonment was not the fault of the employee, the employee will be reinstated and back pay restored.

g. **DETERMINATION OF LEGAL INCOMPETENCE.** An employee who is declared mentally incompetent by court action and who is not eligible for disability retirement will be separated by the action, "Separation—Legal Incompetence."

h. **SEPARATION OF EXCESS PERSONNEL**

(1) If an employee is excess to the needs of a component and requests assistance for reassignment, an effort will be made first by the Career Service and then by the Office of

ADMINISTRATIVE—INTERNAL USE ONLY

STATINTL

PERSONNEL

Personnel to find suitable employment elsewhere in the Agency. If these efforts fail, the employee may be found excess to the needs of the Agency and separated.

- (2) The grounds for finding an employee excess to the needs of a component are:
- (a) The component is overstrength overall or in a particular grade or functional element;
 - (b) There is no longer a requirement for the particular skills or qualifications possessed by the employee; or
 - (c) A reduction or elimination of the functions of the component thereby requiring a reduction in staff.

i. LOW RANKING—WITH NOTIFICATION—IN TWO CONSECUTIVE YEARS. It is Agency policy to monitor the overall level of employee performance by application of comparative ranking to identify employees whose performance and potential are low in comparison with other employees of the same grade and functional category. The various evaluation panels and boards subordinate to a Career Service will identify employees who rank in the bottom three percent of those being ranked. They will then identify any of these who have, in the judgment of the panel, significant problems (relative to their peers) in performance, attitude affecting performance, or willingness to accept assignment in the interests of the Agency. The names of employees so identified will be sent, along with other pertinent material, to the Head of the Career Service, who will review the list, making deletions where circumstances do not support further action. After these deletions, the remaining employees on the list will be notified of the low ranking, the reasons for it, the availability of counseling to assist any effort to improve ranking, and the consequences of low ranking in a consecutive year. Upon notification of low ranking in a second consecutive year, the administrative action, depending upon the circumstances of the case, may include counseling, reassignment, downgrading, or separation. If the Head of the Career Service determines that separation is warranted under this paragraph, the case will be reviewed with the Director of Personnel before initiating separation procedures.

j. OTHER TERMINATION IN THE INTERESTS OF THE AGENCY. In addition to paragraphs a through i, employees may be terminated if the Director of Central Intelligence determines it necessary and advisable in the interest of the Agency or for other reasons contributing to the efficiency of the Agency.

k. RESPONSIBILITIES

- (1) **HEADS OF CAREER SERVICES.** The Heads of the five Career Services are responsible for identifying employees under their jurisdictions who should be considered for separation. They or their designees will review each case with the Director of Personnel or designee and, when appropriate, recommend to the Director of Personnel termination of the individual's employment.
- (2) **DIRECTOR OF SECURITY.** When warranted by the information available, and after notifying the appropriate Head of Career Service, the Director of Security will recommend to the Director of Personnel the termination of the employment of an Agency employee and advise the Director of Personnel of the security factors bearing on the recommended separation. When the Director of Security considers an individual case to be so sensitive that disclosure should initially be made only to the Director of Central Intelligence for determination of the action to be taken, such procedure will be followed.
- (3) **DIRECTOR OF MEDICAL SERVICES.** When findings warrant, the Director of Medical Services will recommend to the Director of Personnel the disability retirement of an employee or the termination of employment on grounds of medical

ADMINISTRATIVE—INTERNAL USE ONLY

PERSONNEL

STATINTL

disqualification. The Director of Medical Services also will advise the Director of Personnel of medical factors bearing on recommended separations.

- (4) **DIRECTOR OF PERSONNEL.** Subject to the consideration set forth in paragraph m, the Director of Personnel will ensure compliance with the procedures established by this regulation and will take appropriate action or recommend action to the Director of Central Intelligence.

l. Not used

m. PROCEDURES. Normally, separations by the Agency will be effected in accordance with the procedures outlined below. They should be followed insofar as practicable, but there may be circumstances of a case that make these procedures impractical or undesirable, and the case should be handled in a manner conforming to the circumstances. Moreover, to meet the responsibilities placed upon the Agency and pursuant to statutory authority, any employee may be separated immediately and without regard to any suggested procedural steps when the Director of Central Intelligence considers it necessary or advisable in the interests of the United States.

- (1) A Head of a Career Service or designee who plans to recommend the separation of an employee will first review the case with the Director of Personnel or designee.
- (2) Upon recommendation to the Director of Personnel ^{by} the Head of the Career Service that an employee be separated, the Director of Personnel or designee will confirm to the employee that such a recommendation has been made and will give the reasons for the action being considered, as presented by the Career Service. The employee will be offered the opportunity to comment orally or in writing within ten days.
- (3) If the Director of Personnel, after review, decides not to recommend termination of the individual's employment, the Head of the Career Service will be consulted as to the appropriate course of action.
- (4) If the Director of Personnel concludes that termination of the individual's employment is to be recommended, the employee will be advised in writing and the case forwarded to the Director of Central Intelligence for decision. The employee will be advised that a written appeal of the termination recommendation may be filed with the Director of Central Intelligence within ten days.
- (5) After reviewing the recommendation of the Director of Personnel to terminate the employment of an employee, and after consideration of any written appeal, the Director of Central Intelligence may:
 - (a) Terminate the individual's employment with the Agency, pursuant to section 102(c) of the National Security Act of 1947, as amended, or any other authority that may be appropriate to the particular case. The effective date of termination will not be less than 30 days after the decision by the Director of Central Intelligence.
 - (b) Disapprove in whole or in part the recommendation of the Director of Personnel.
- (6) The Director of Personnel will notify the employee in writing of the decision of the Director of Central Intelligence.
- (7) The prior steps required in the separation of excess personnel are as follows:
 - (a) If the head of a component determines that an individual is excess to the needs of the component, both the Head of the Career Service and the employee will be advised of the fact. If the employee requests, the Career Service will make an effort to place the employee in another component within that Career Service. If this is not possible, the Career Service will declare the employee excess and notify the employee in writing of that fact. The Director of Personnel also will be advised.

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67

ADMINISTRATIVE—INTERNAL USE ONLY

STATINTL

ADMINISTRATIVE—INTERNAL USE ONLY

PERSONNEL

- (b) When the determination is made that an employee is excess to the personnel requirements of the Career Service, the Head of the Career Service will take into consideration the current and anticipated requirements of the Career Service with respect to such factors as grade and qualifications. The comparative performance of employees also may be a factor in selecting employees to be retained or separated from the Career Service.
- (c) When requested by an employee declared excess to the requirements of a Career Service, the Director of Personnel will review the qualifications and background in an effort to place the employee elsewhere in the Agency at the same or different grade.
- (d) If this effort is unsuccessful after an interval of time sufficient to explore the possibility of alternative placement, the Director of Personnel will initiate termination following the prescribed procedure detailed in paragraphs m(1) through (6), including review and possible appeal. After the appropriate review, the Director of Personnel may recommend termination to the Director of Central Intelligence or may request the Head of the Career Service to reconsider the declaration of the employee as excess.
- (8) In some other cases, the following modified procedures apply:
 - (a) In the case of abandonment of position, the procedures of paragraph f are to be followed.
 - (b) In the case of separation during the trial period, the procedures of paragraph a are to be followed.
 - (c) Pursuant to statutory authority, the Director of Central Intelligence may separate an employee directly when necessary or advisable in the interests of the United States.

n. **RESIGNATION IN LIEU OF TERMINATION.** An employee whose separation has been recommended may elect to resign at any time before the effective date of separation. If an employee elects to resign after formal action has been initiated but submits a resignation effective at a future date, the Director of Personnel or designee will determine, after consultation with appropriate officials, whether the best interests of the Agency require continuation of procedures to effect involuntary separation at an earlier date.

ADMINISTRATIVE—INTERNAL USE ONLY

PERSONNEL

STATINTL

STATINTL

28. **VOLUNTARY SEPARATIONS.** This regulation sets forth the procedures for employees who voluntarily terminate their employment with the Agency. The procedures for Exit Processing are contained in []

a. RESIGNATION

- (1) An employee who intends to resign from the Agency will, if possible, give at least two weeks' notice in writing.
- (2) The resignation will be effective at the close of business on the last day the employee is present for duty except in the following circumstances:
 - (a) An employee resigning while on leave of absence ordinarily will specify the resignation date. However, a request to have the resignation retroactively effective will be subject to review by the Office of Personnel; but in no case may the resignation be effective earlier than the employee specifies. If the employee sets an effective date to include a period for which leave has not been approved, that period may be charged to annual leave or may be considered as absence without leave (AWOL) at the discretion of the Agency.
 - (b) When an employee resigns in circumstances where the granting of accrued annual or sick leave is proper, the resignation date may be extended to grant the unused leave.
- (3) An employee whose separation has been proposed may elect to resign at any time before the effective date of termination. However, supervisors will not request an employee's resignation as an alternative to the initiation of a proposal for separation or advise that failure to resign will necessarily result in termination of employment.

- b. SEPARATIONS TO ENTER MILITARY SERVICE.** An employee entering military service under a program that provides restoration rights to civilian employment will be separated by administrative action in such a way as to preserve legal entitlements. The Head of the Career Service will supply the Office of Personnel with the required information about the position being vacated by the employee. The Office of Personnel will process the administrative action and advise the employee of leave, retirement rights, and restoration rights under appropriate Federal statutes and Civil Service Commission regulations.

- c. RETIREMENT.** The procedures for retirement under the Civil Service Retirement System and the CIA Retirement and Disability System are prescribed in [] respectively.

- d. TRANSFER WITH REEMPLOYMENT RIGHTS.** By mutual agreement between the hiring and the losing agency, an employee may be separated from Agency employment with the grant of a reemployment right. Usually, such a right extends for a fixed term and may be exercised by the employee's application for reemployment according to established procedures.

- e. SEPARATION TO ACCEPT OTHER EMPLOYMENT WITHOUT A BREAK IN SERVICE.** Resignation is normally required when an employee is leaving to accept employment with another Federal agency without a break in service. The separation is effective on the day before the new appointment.

STATINTL

→Revised: 17 March 1977 (1000)

69-70

ADMINISTRATIVE—INTERNAL USE ONLY